

**To:** Helmlinger, Andrew[Helmlinger.Andrew@epa.gov]  
**Cc:** Herrera, Angeles[Herrera.Angeles@epa.gov]; glovato@ndep.nv.gov[glovato@ndep.nv.gov]  
**From:** Jasmine K. Mehta  
**Sent:** Thur 12/31/2015 7:41:28 PM  
**Subject:** FW: Yerington Mine

Hi, Andrew,

I wanted to keep you informed about recent discussions we have had with Singatse Peak Services on its proposed enhanced evaporation pilot study. Below is an email sent to their counsel, Carla Consoli, re our discussions and what we view as necessary steps and a timeline to move forward. Singatse is asking for a covenant similar to the one with U.S. EPA. Would you be able to provide a word version of that document to me? I have tried converting the .pdf to a word document but it would take me more time to clean it up than to simply type a new one.

Thank you, and have a Happy New Year!

Jasmine K. Mehta

Senior Deputy Attorney General

Nevada Attorney General's Office

[jmehta@ag.nv.gov](mailto:jmehta@ag.nv.gov)

775-684-1216

**From:** Jasmine K. Mehta  
**Sent:** Thursday, December 31, 2015 11:34 AM  
**To:** 'cconsoli@lrrlaw.com'  
**Cc:** 'Greg Lovato'  
**Subject:** Yerington Mine

Dear Carla,

Thank you for taking the time yesterday to discuss with Greg Lovato and me your client's concerns regarding U.S. EPA's letter to the Governor about potentially listing the Yerington Mine Site on the National Priorities List. You expressed that your client, Singatse Peak Services, LLC ("SPS"), is willing to move forward, both in terms of performing the work and financing it, with the enhanced evaporation pilot study to prolong the capacity of the fluid management system at Operable Unit 8. However, your client is concerned that doing so could potentially deprive it of the protections afforded bona fide prospective purchasers under Section 101(40) of CERCLA, 42 U.S.C. § 9601(40).

The NDEP understands the concern about incurring potential liability that it would not otherwise have by performing the pilot study, and to that end is willing to entertain a limited covenant not to sue for work performed in conducting the pilot study. Toward that end, we are reviewing the Settlement Agreement and Order on Consent for Removal Action by Bona Fide Prospective Purchaser between the U.S. EPA and Singatse Peak Services, LLC ("Settlement Agreement"), in light of Nevada law. I have also reached out to counsel for U.S. EPA Region 9, Andrew Helmlinger, to ask for a word version of the final executed document. I have not yet heard back from him.

We view the work plan for the pilot study as a critical path item. While it can be completed and submitted while the terms of the covenant are being ironed out, both NDEP and the U.S. EPA will need to weigh in on the work plan. Since U.S. EPA is currently the lead agency, it will need to approve the work plan, the data to be collected, and the criteria for success. You did not mention whether you would seek an additional covenant from U.S. EPA for the enhanced evaporation pilot study, but if that is the case, U.S. EPA would need to provide a public notice and comment period for any revision or supplement to the Settlement Agreement.

In order to ensure that we can accomplish the tasks necessary for the enhanced evaporation pilot project, the NDEP proposes the following schedule and requests your feedback on the same:

1. **January 22, 2016:** SPS to submit the enhanced evaporation pilot project workplan to the NDEP and U.S. EPA with copies to Atlantic Richfield and Yerington Paiute Tribe
2. **February 29, 2016:** U.S. EPA and NDEP to respond to the pilot workplan
3. **March 11, 2016:** SPS to respond to comments
4. **March 25, 2016:** U.S. EPA to make decision on approval of workplan
5. **March, 2016:** SPS and NDEP to finalize covenant not to sue
6. **April, 2016:** SPS to begin implementation of workplan
7. **May – September, 2016:** SPS to provide operational data
8. **October, 2016:** SPS to provide report and recommendation on path forward

Please note that the above schedule does not take into account any time needed for revision or supplement of the Settlement Agreement with U.S. EPA. I will try to have a draft covenant to you by next week from which we can begin discussions about the terms and scope of a covenant. If you can please provide a timeline for when you expect your client to have a work plan available for review, that would be very helpful. I look forward to working with you. Have a happy and safe New Year.

Jasmine K. Mehta

Senior Deputy Attorney General

Nevada Attorney General's Office

[jmehta@ag.nv.gov](mailto:jmehta@ag.nv.gov)

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